

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TINA CRENSHAW,

Plaintiff,

v.

NORMAN HUNTER, USA TRUCK,
INC., and ACE AMERICAN
INSURANCE COMPANY,

Defendants.

CIVIL ACTION
FILE NO.:

NOTICE OF REMOVAL

COME NOW, Defendants Norman Hunter (hereinafter “Hunter”), USA Truck, Inc. (hereinafter “USA Truck”), and ACE American Insurance Company (hereinafter “ACE”), by and through the undersigned counsel, without waiving any defenses as to personal jurisdiction, venue, process, or service of process, and pursuant to 28 U.S.C. § 1441(a) and (b) hereby file this Notice of Removal, respectfully showing the Court as follows:

1.

Plaintiff filed a civil action arising from a motor vehicle accident against Defendants in the State Court of Gwinnett County, State of Georgia, Civil Action

No. 21-C-03058-S1. A copy of all pleadings and process served upon Defendants is attached hereto as Exhibit “1.”

2.

At the time of the filing of the Complaint, and as alleged in the Complaint, Plaintiff was a resident of Tennessee.

3.

At the time of the filing of the Complaint, Defendant Hunter was a resident of the state of Texas who resided at 511 E Ross Ave., Mart, TX 76664. Hunter was served with the Complaint on May 19, 2021. *See* Ex. 1.

4.

At the time of the filing of the Complaint, Defendant USA Truck was, and currently is, a corporation organized under the laws of the State of Delaware with its principal place of business located at 3200 Industrial Park Road, Van Buren, AR, 72956. *See* Georgia Secretary of State record attached hereto as Exhibit “2.” USA Truck was served with the Complaint on May 13, 2021. *See* Ex. 1.

5.

At the time of the filing of the Complaint, Defendant ACE was, and currently is, a corporation organized under the laws of the State of Pennsylvania with its principal place of business located at 436 Walnut St., Philadelphia, PA, 19106. *See*

Pennsylvania Secretary of State record attached hereto as Exhibit “3.” ACE was served with the Complaint on May 13, 2021. *See* Ex. 1.

6.

A corporation is deemed to be a citizen of both the state of its incorporation and the state where it has its principal place of business. 28 U.S.C. § 1332(c); *see Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010) (defining a corporation’s principal place of business as the “place where a corporation’s officers direct, control, and coordinate the corporation’s activities”). Therefore, USA Truck is a citizen of Delaware and Arkansas and ACE is a citizen of Pennsylvania for purposes of diversity jurisdiction.

7.

Therefore, complete diversity of citizenship exists between Plaintiff and all Defendants for purposes of 28 U.S.C. § 1332(c)(1).

8.

Plaintiff alleges that Defendants are liable for damages related to the Plaintiff’s alleged personal injuries. Specifically, she has asserted claims for personal injuries, pain and suffering, disability, mental anguish, loss of the capacity for the enjoyment of life, impaired ability to labor, past medical expenses of at least

\$105,261.68, present, and future medical expenses, permanent injuries, incidental expenses, and consequential damages to be proven at trial. (*See* Complaint ¶ 21).

9.

The foregoing action is properly removable to this Court, pursuant to 28 U.S.C. §§ 1441(a), 1446(a) and 1446(b) and 1332(a), because there is a complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy, exclusive of interest and costs of this action, exceeds the sum of \$75,000.00. (*See* Complaint ¶ 21, *see also* Plaintiff's Pre-Suit Offer of Settlement and Statutory Demand for Payment, attached hereto as Exhibit "4," demanding payment of \$1,000,000).

10.

The United States District Court for the Northern District of Georgia is the proper venue for removal under 28 U.S.C. § 1441(a) because the Northern District, Atlanta Division, encompasses Gwinnett County. *See* 28 U.S.C. § 90(a)(2).

11.

The Supreme Court has construed the removal statutes to require all defendants in a case to consent to removal, thus creating the so-called "unanimity requirement." *See Russell Corp. v. Am. Home Assurance Co.*, 264 F.3d 1040, 1050 (11th Cir. 2001)

(citing *Chicago, Rock Island, & Pac. Ry. Co. v. Martin*, 178 U.S. 245, 247-48 (1900)). All Defendants consent to this Notice of Removal.

12.

Defendants hereby give notice within thirty (30) days after service and receipt by Defendants of a copy of the Complaint filed in the State Court of Gwinnett County, State of Georgia, pursuant to 28 U.S.C. § 1446 and Rule 11 of the Federal Rules of Civil Procedure, of the removal of said action to this Court.

13.

Defendants have sent a Notice of Removal to the State Court of Gwinnett County, State of Georgia. A copy of the Notice of Filing of Notice of Removal is attached hereto as Exhibit “5”.

This 7th day of June, 2021.

McMICKLE, KUREY & BRANCH, LLP

BY: /s/ Kevin P. Branch

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I mailed a copy of the foregoing pleading via United States first class mail, and I electronically filed the with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing, to the following attorneys of record:

R. Walker Garrett
Morgan & Morgan Atlanta, PLLC
408 12th Street, Suite 200
Columbus, GA 31901
Attorney for Plaintiff

This 7th day of June, 2021.

McMICKLE, KUREY & BRANCH, LLP

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THIS IS TO CERTIFY that, pursuant to LR 5.1B, NDGa., the above document was prepared in Times New Roman, 14 pt.